

**Manatee Protection Plan Review Committee (MPPRC)
Minutes of May 8, 2009**

Committee Attendees: Brett Bibeau; Richard Bunnell; T. Spencer Crowley III; Judith Futerfas; Lynda Green; Bob Karl; Alberto Lamadrid; Mark Lewis; Robert Moser; Dick Townsend (Vice Chair)

County Staff Attendees: Lee Hefty (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Lisbeth Britt (DERM); Molly Messer (DERM); Nancy Revilla (DERM); Matt Davis (DERM); Lisa Spadafina (DERM); Kevin Asher (MDPR)

Other Attendees: A sign in sheet was provided for public sign in.

1. Welcome, Introductions, and Review of Agenda: A quorum was established. The meeting was called to order by Vice Chair Dick Townsend at 1:15 P.M. The meeting was recorded on video.

2. Proposed Revision and Clarification of "Variance" Section of the 1995 MPP:

The MPPRC members had previously been sent a draft of proposed revisions to the variance section of the MPP for review by email as a "read ahead". Dr. Markley briefly explained that based on comments and suggestions by committee members as well as the public, DERM staff reviewed the section of the MPP called "performance criteria" (guidelines for variances) and have proposed revisions for the purposes of discussion. The revisions proposed relate specifically to a proposed new or expanded facility where the proposed facility does not meet the facility siting guidelines in the MPP. These variance measures would be used after a project has been reviewed and found to meet all requirements except consistency with the Manatee Siting Criteria. DERM is considering a process that would provide two potential avenues for projects that do not meet the MPP, either by meeting the variance measures or by providing mitigation by removing the same number of slips from a nearby area and transferring the slips. Vice Chair Townsend solicited comments and questions from the committee members.

Based on the discussion, the following clarifications were requested:

- Clarification of definitions of variance, mitigation, warm water/cold weather aggregation area, upstream and downstream.
- Clarification of scenarios of when the variance and mitigation options are applicable and appropriate. An appendix with a flow chart was suggested to aid in determination of when the options are appropriate.
- Clarification that separate covenants would be required for both the slip donor and slip recipient properties.

In addition to the suggestions noted above, the following issues were discussed related to projects that would require either mitigation or a variance under this proposal:

- any additional burden that would be placed on applicants
- questions related to the restrictions and limits proposed as well as the process
- "downstream" transfers"
- the proposed 0.5 mile transfer distance for open water projects

- whether the mitigation or variance process would result in additional impacts to manatees
- enforceability
- potential demolition of slips from the donor site once transferred

Several members of the committee stated they wanted to see the results of the Mote boating study data and consider that data prior to voting. It was also suggested that a draft covenant form should be included, at least as an appendix, for the mitigation requirement.

3. Proposed date for next regular meeting(s): Suggested dates were **Wednesday June 3, 2009 from 1:00 P.M. - 4:30 P.M** and **Wednesday July 1, 2009 from 1:00 P.M. - 4:30 P.M** for the next regular meetings. Vice Chair Townsend requested that DERM poll the absent members for availability before making a final decision.

4. Committee Open Discussion: Vice Chair Townsend suggested that DVDs of this meeting be sent to absent members so that they can keep up with the discussion of slip transfers. For the next meetings, he asked that each member consider whether or not the MPP requires any revisions considering the overwhelming public sentiment that the MPP does not need revisions. He also suggested that any suggested revisions include changes that will make administration of the MPP easier for DERM. He then opened the floor for comment.

The issue of improved and updated methods of data synthesis was discussed at length. It was suggested that DERM use the types of data synthesis used in the Broward and Palm Beach County MPP's. Dr. Markley indicated that DERM will use advanced and up to date GIS methods for data synthesis that should allow for objective decision making related to feasible areas for facility expansion. Several members emphasized the urgency of agreeing on how to handle recommendations based on the number meetings that are left. Dr. Markley stated that she thinks it is Chair Prieguez's intention to use the existing MPP format and update the data sections but not to recreate a plan.

Mr. Bibeau asked what protections, representation and defense will the County provide if lawsuits are filed by property owners or private interest groups against the board or its members. He also asked whether or not the MPPRC has a board member insurance policy. Dr. Markley said that she will ask the County Attorney's Office, but that since the MPPRC makes recommendations it is not clear that there would be any liability.

5. Public Comment

Ed Swakon, President of the Miami Marine Council, requested that courtesy notices be sent out for any changes in meeting times and dates. In addition, the handouts given to the MPPRC should be made equally available to the public, especially draft revisions like those discussed at this meeting. He made the following additional comments:

- Future (i.e. potential slips) slips as a transfer item could work if properties are related by ownership. He recommends that that concept be revisited.
- The map of cold water aggregation areas referenced needs to be well defined and looked at very closely for exact and specific areas. In addition, the travel corridors need to be well defined through those areas and where they begin and end.
- Recommended that the MPPRC consider as mitigation increased operating fees for facilities using sensitive manatee areas with the fees being allocated to

enforcement or a fund similar to the Biscayne Bay Environmental Enhancement Trust Fund to address cumulative manatee enhancement activities.

- Suggested special attention and relief be given to facilities at the mouths of tributaries to distinguish them from upstream areas in terms of MPP restrictions.
- Supports the free market concept of slip transfer, however, he does not support the "use it or lose it" concept because of property rights issues.
- Suggested the MPPRC consider transfers from one tributary to another using a ratio of slips from one to the other if it is a net benefit to the manatee.
- The open water transfer distance should be greater (at least 10 miles) in order to make it usable.

6. Review of draft minutes of March 27, 2009: Mr. Moser left prior to the discussion of the minutes. Vice Chair Townsend asked whether the March minutes required any discussion.

Brett Bibeau made a motion that the March 27, 2009 minutes be approved subject to two revisions:

1) On page 3, second paragraph, to add the word "boat" between the words "little use" referring to the public usage of Point Park.

2) On page 5, second complete paragraph, to delete "...make improved signage and speed enforcement a priority in Tallahassee." and insert "...support the Manatee Protection Plan Review Committee and Board of County Commissioners request to increase fines for speeding boats."

The motion was seconded by Alberto Lamadrid and passed unanimously. (Lynda Green, Bob Karl and Robert Moser were not present for the vote).'

Other Business:

Judith Futerfas brought up a previous discussion during the meeting about extending the sunset date of the MPPRC and offered her support of that concept. Dr. Markley commented that the ordinance would have to be amended which takes an extended period of time and that there may not be enough time to complete that process prior to the current sunset date.

Vice Chair Townsend suggested that the committee members go through the MPP meticulously and have questions that may be answered by additional data ready for the next meeting. He would like to get as much accomplished in the June 3rd meeting as possible and if at that point they needed more time an interim June meeting could be set, if necessary.

Dick Bunnell made a motion that the Chair or DERM staff vigorously pursue the extension of 3 months that wasn't granted before. The motion was seconded by Judith Futerfas. The motion passed unanimously (Lynda Green, Bob Karl, and Robert Moser were not present for the vote).

Mark Lewis suggested that the committee continue to move forward to complete its work under the assumption that the extension will not be granted. Mark Lewis motioned for a close to the meeting which was seconded by Alberto Lamadrid.

The meeting adjourned at 5:15 P.M.